

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH MICHAEL BRADLEY,

Plaintiff,

v.

WELLPATH HEALTH,

Defendant.

No. 2:21-cv-1409 CKD P

ORDER

Plaintiff is a Sacramento County Jail prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a  
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally  
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek  
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

6 The court has reviewed plaintiff’s complaint and finds that it fails to state a claim upon  
7 which relief can be granted under federal law. Plaintiff’s complaint must be dismissed. The  
8 court will, however, grant leave to file an amended complaint. The court provides the plaintiff  
9 with the following information to assist plaintiff in drafting an amended complaint.

10 First, in his complaint, plaintiff identifies the defendant as a “nurse” working at the Solano  
11 County Jail. In order to proceed on a claim for damages, plaintiff must identify the defendant by  
12 name.

13 Second, plaintiff complains about medical care. Denial or delay of medical care can  
14 violate the Constitution. Estelle v. Gamble, 429 U.S. 97, 104-05 (1976). A violation occurs  
15 when a jail official causes injury as a result of his or her deliberate indifference to an inmate’s  
16 serious medical needs. Id. A showing of merely negligent medical care is not enough to establish  
17 a constitutional violation. Frost v. Agnos, 152 F.3d 1124, 1130 (9th Cir. 1998), citing Estelle,  
18 429 U.S. at 105-106.

19 Third, plaintiff is informed that the court cannot refer to a prior pleading in order to make  
20 plaintiff’s amended complaint complete. Local Rule 220 requires that an amended complaint be  
21 complete in itself without reference to any prior pleading. This is because, as a general rule, an  
22 amended complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th  
23 Cir. 1967). Once plaintiff files an amended complaint, the original pleading no longer serves any  
24 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim  
25 and the involvement of each defendant must be sufficiently alleged.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 9) is granted.

3 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees  
4 shall be collected and paid in accordance with this court's order to the Sacramento County Sheriff  
5 filed concurrently herewith.

6 3. Plaintiff's complaint is dismissed.

7 4. Plaintiff is granted thirty days from the date of service of this order to file an amended  
8 complaint that complies with the requirements of this order, the Civil Rights Act, the Federal  
9 Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the  
10 docket number assigned this case and must be labeled "Amended Complaint." Failure to file an  
11 amended complaint in accordance with this order will result in a recommendation that this action  
12 be dismissed.

13 Dated: September 24, 2021



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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